

IT IS ORDERED

Date Entered on Docket: September 15, 2022



The Honorable Robert H Jacobvitz
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW MEXICO

IN RE:

JOHANA MOORE,

Debtor.

CHAPTER: 13

CASE NO. 22-10535-j13

**DEFAULT ORDER GRANTING U.S. BANK TRUST NATIONAL ASSOCIATION, AS
TRUSTEE OF THE LB-CABANA SERIES IV TRUST'S MOTION FOR RELIEF FROM
AUTOMATIC STAY TO PROCEED WITH EVICTION**

The above-captioned matter came before the Court upon U.S. Bank Trust National Association, as Trustee of the LB-Cabana Series IV Trust ("Movant") unopposed *Motion for Relief from Automatic Stay* (Docket No. 30) ("Motion") in which Movant requested relief from the automatic stay of 11 U.S.C. § 362(a) regarding real property commonly known as 1710 W Alameda St Unit 2, Santa Fe, New Mexico 87501-1766 (the "Property"), which is legally described as follows:

**UNIT 2 OF THE TRES PLACITAS DEL RIO
CONDOMINIUMS, CREATED BY DECLARATION OF
CONDOMINIUM OWNERSHIP AND OF
EASEMENTS, COVENANTS AND RESTRICTIONS FOR
TRES PLACITAS DEL RIO, A CONDOMINIUM, RECORDED
IN BOOK 1228, PAGE 968, AS AMENDED, AND THE FIFTH**

**AMENDMENT, RECORDED AS INSTRUMENT NO.1346206,
AND AS SHOWN ON PLAT FILED IN PLAT BOOK 558,
PAGE 034 AND IN PLAT BOOK 567, PAGE 042, RECORDED
IN THE OFFICE OF THE COUNTY CLERK, SANTA FE
COUNTY, NEW MEXICO.**

The Court having reviewed and considered the record, Movant's properly served and noticed Motion, and based on Debtor failure to respond to Movant's Motion, and it appearing that the Debtor is not active members of the armed services as evidenced by the Affidavit of Non-Military Service filed herein, the Court grants Movant's Motion and, therefore:

THE COURT HEREBY FINDS:

1. On August 16, 2022, Movant served the Motion and a notice on the Motion ("Notice") was served on Debtor, Debtor's counsel of record and Trustee;
2. The Notice specified an objection deadline of twenty-one (21) days from the date of service of the Notice;
3. The Notice was sufficient in form and content;
4. The deadline to object to the Motion expired on September 6, 2022;
5. As of September 7, 2022, neither the Debtor, the Trustee, no any party in interest filed and objection to the Motion;
6. The Motion is well taken and should be granted as provided herein;
7. By submitting the present Order for entry, counsel for Movant certifies under penalty of perjury that on September 12, 2022, the Department of Defense Manpower Data Center ("DMDC") was searched and analyzed. The DMDC does not possess any information indicating that the Debtor is currently on active military duty of the United States of America.

IT IS THEREFORE ORDERED:

1. Pursuant to 11 U.S.C. §362(d), Movant and any and all holders of liens against the Property, of any lien priority, are hereby are granted relief from the automatic stay:
 - (a) To enforce their rights in the Property, including foreclosure of liens and a foreclosure sale, under the terms of any prepetition notes, mortgages, security agreements, and/or other agreements to which Debtor is a party, to the extent permitted by applicable non-bankruptcy law, such as by commencing or proceeding with appropriate action against the Debtor or the Property, or both, in any court of competent jurisdiction; and

(b) To exercise any other right or remedy available to them under law or equity with respect to the Property.

2. The automatic stay is not modified to permit any act to collect any deficiency or other obligation as a personal liability of the Debtor, although the Debtor can be named as a defendant in litigation to obtain an *in rem* judgment or to repossess the Property in accordance with applicable non-bankruptcy law.

3. This Order does not waive Movant's claim against the estate for any deficiency owed by the Debtor after any foreclosure sale or other disposition of the Property. Movant may file an amended proof of claim in this bankruptcy case within 30 days after a foreclosure sale of the Property, should it claim that Debtor owe any amount after the sale of the Property.

4. This Order shall continue in full force and effect if this case is dismissed or converted to a case under another chapter of the Bankruptcy Code.

5. This order is effective and enforceable upon entry. The 14-day stay requirement of Fed.R.Bankr.P. 4001(a)(3) is waived.

END OF ORDER

Submitted by:

/s/ Eddie R. Jimenez
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